

REMARKS/ARGUMENTS

Claims 1-96 stand rejected, with claims 5-14, 21-30, 37-46, 53-62, 68-78 and 85-94 objected to in the outstanding Official Action. Claims 1, 4, 17, 20, 33, 49, 65, 67, 68, 81 and 84 have been amended and therefore claims 1-96 remain in this application.

The Examiner's acknowledgment of the acceptability of Applicants' originally submitted formal drawings is very much appreciated. Additionally, the Examiner's consideration and review of Applicants' previously submitted Information Disclosure Statement is very much appreciated.

In paragraphs 7 and 8 of the Official Action, the Examiner objects to claims 5-14, 21-30, 37-46, 53-62, 68-78 and 85-94 as allegedly failing to comply with proper numbering. Applicants appreciate this notification of objection, but in view of the Examiner's statement that "applicant's sequence will not be changed," Applicants believe no correction or modification of the claim numbering is required. Should the Examiner believe a change in claim numbering is required in order to be a complete response to paragraph 7 of the Official Action, he is respectfully requested to point out how and what claim numbering he believes should be changed.

Claims 1-3, 5, 17-19, 21, 33-35, 37, 49-51, 53, 65-67, 69, 81-83 and 85 stand rejected under 35 USC §102 as being anticipated by Cozza (U.S. Patent 5,649,095). The Court of Appeals for the Federal Circuit has noted in the case of *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984) that "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Applicants' independent claims specify that resource data is read by the computer program product "without dependence upon which unpacking algorithm is used by said packed computer file." In other words, unpacking does not have to occur in order for certain resource data to be read. Applicants' invention also involves generating characteristics of the read resource data and comparing those characteristics with characteristics of resource data of known computer programs and for detecting a match indicative of the packed computer file containing the known computer program.

In other words, if a virus is stored within a packed file, the present invention can review the packed files for the resource data and generate characteristics from that resource data without unpacking the files and without knowing the unpacking algorithm which would normally be used for unpacking the file. The characteristics of the read resource data are then compared with characteristics of known viruses and any match provides an indication of the known virus. Applicants' independent claims 1, 17, 33, 49, 65, 81 and 84 have been amended to more clearly and positively recite the above invention.

The Cozza reference does not read "resource data within said packed computer file" as required by Applicants' independent claims. Instead, Cozza, as discussed at column 6, lines 18-20, discloses merely decompressing, opening or executing some special system or other code to obtain size information from a compressed file. The process of decompressing, opening or using some special code on a compressed file are all actions which are heavily dependent upon the particular unpacking algorithm used by the packed computer file.

Cozza clearly teaches that one must know the unpacking algorithm in order to obtain the size information from the decompressed file. Thus, Cozza is a good example of a system, as discussed in the background of Applicants' invention, which requires the increased processing

load and complexity associated with decompressing, opening and then analyzing files, which problem is actually solved by the present invention.

Thus, Cozza does not teach the subject matter of Applicants' independent claims, i.e., reading resource data of a packed computer file and then generating characteristics of the resource data and comparing those characteristics with characteristics of known computer programs and determining whether a match exists. Cozza simply fails to disclose any aspect of Applicants' claimed invention and therefore claims 1-3, 5, 17-19, 21, 33-35, 37, 49-51, 53, 65-67, 69, 81-83 and 85 cannot be anticipated by Cozza under 35 USC §102(b) and any further rejection thereunder is respectfully traversed.

Claims 4, 9-11, 13, 14, 20, 25-27, 29, 30, 36, 41-43, 45, 46, 52, 57-59, 61, 62, 68, 73-75, 77, 78, 84, 89-91, 93 and 94 stand rejected under 35 USC §103 as being unpatentable over Cozza as previously applied to Applicants' independent claims and further in view of Hyppönen (U.S. Patent 6,577,920). Inasmuch as these claims all depend from Applicants' independent claims, the above comments distinguishing these claims from the Cozza reference are herein incorporated by reference.

Applicants can find no contention by the Examiner that the Hyppönen reference teaches the missing features which are claimed in Applicants' independent claims and previously noted to be absent in the Cozza reference. Thus, if these aspects of the independent claims are missing in both Cozza and Hyppönen, the claims cannot be obvious in view thereof. The burden is on the Examiner to establish a *prima facie* basis of unpatentability by establishing that all claimed subject matter is disclosed in at least one of the combination of references. Here, none of the Cozza and Hyppönen references disclose the subject matter of Applicants' independent claims

and therefore the independent claims, as well as all claims dependent thereon, are clearly patentable over the Cozza/Hyppönen combination.

Claims 12, 28, 44, 60, 76 and 92 stand rejected under 35 USC §103 as being unpatentable over the Cozza/Hyppönen combination and further in view of Hodges (U.S. Patent 6,269,456). The above discussion of Cozza by itself and of the Cozza/Hyppönen combination are herein incorporated by reference. It is noted that the Examiner does not allege that Hodges reference teaches the missing subject matter from Applicants' independent claims, as discussed above. Inasmuch as claims 12, 28, 44, 60, 76 and 92 depend from allowed claims, any further objection thereto is respectfully traversed.

Claims 6-8, 15, 16, 22-24, 31, 32, 38-40, 47, 48, 54-56, 63, 64, 70-72, 79, 80, 86-88, 95 and 96 stand rejected under 35 USC §103 as unpatentable over Cozza as applied to the independent claims and further in view of Pietrek ("Peering Inside the PE: A Tour of the Win 32 Portable Executable"). Inasmuch as these claims are all dependent from Applicants' independent claims, the above discussion regarding the Cozza reference is herein incorporated by reference.

Furthermore, it is noted that the Examiner does not allege that Pietrek discloses the missing structure and method steps identified to be absent from the Cozza reference with respect to Applicants' independent claims. If neither the Cozza nor Pietrek reference discloses Applicants' claimed subject matter, the combination of these two references cannot render obvious Applicants' claimed subject matter. Accordingly, any further rejection of claims 6-8, 15, 16, 22-24, 31, 32, 38-40, 47, 48, 54-56, 63, 64, 70-72, 79, 80, 86-88, 95 and 96 is respectfully traversed.

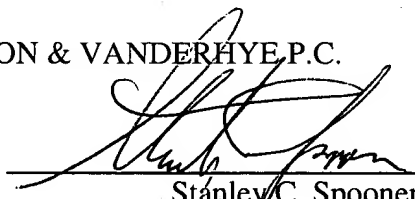
COWIE et al.
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Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 1-96 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

Respectfully submitted,

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